

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case No. 22-cr-115 (WMW/TNL)

Plaintiff,

v.

ORDER

Richard Dean Vandeweerd,

Defendant.

This matter comes before the Court on Defendant Richard Dean Vandeweerd's Motion for Continuance of Motion Filing Date. ECF No. 20. Defendant requests a one-week continuance of the motions filing date, from July 19 to July 26, 2022. *Id.* Defendant's counsel contends that he "has been out of the district for two weeks and needs additional time to confer with [Defendant]." *Id.* The Government has not filed an objection to Defendant's request for a continuance of the motions filing date. Neither party has requested a continuance of the August 16, 2022, motions hearing.

Defendant also filed a Statement of Facts in Support of Exclusion of Time Under the Speedy Trial Act ("Statement of Facts"). ECF No. 21. In his Statement of Facts, Defendant requests that the period of time from July 19 to 26 be excluded from the time in which he would otherwise be brought to trial in this case. *Id.*

Additionally, beginning on March 13, 2020, and continuing thereafter, the Honorable John R. Tunheim, then-Chief District Judge for the United States District Court for the District of Minnesota, has issued a series of General Orders in connection with the

COVID-19 pandemic, addressing, among other things, criminal proceedings and trials.¹ On June 1, 2022, Judge Tunheim entered General Order No. 36, which allows limited in-person proceedings for defendants who decline to consent to conducting the proceeding using videoconferencing, or telephone conferencing if videoconferencing is not reasonably available. *See generally In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 36 (D. Minn. June 1, 2022). General Order No. 36 states that because only limited in-person proceedings may be held each day, criminal proceedings may be continued until the date that the criminal proceeding takes place.

General Order No. 36 continues to encourage the use of videoconferencing in criminal proceedings and states that, with the defendant's consent, criminal proceedings may be conducted by videoconferencing, or telephone conferencing if videoconferencing is not reasonably available. **Accordingly, should Defendant file pretrial motions, counsel shall also file a letter indicating whether Defendant consents to a motions hearing by videoconference.** *See, e.g.*, ECF Nos. 15. General Order No. 36 further provides that the presiding judge will enter orders in individual cases to extend deadlines and exclude time under the Speedy Trial Act to address delays attributable to COVID-19. Specifically, Order No. 36 states the following concerning the Speedy Trial Act:

If the proceeding must be continued, the Court finds that the time of the continuances implemented by this order will be excluded under the Speedy Trial Act, as the Court specifically finds that the ends of justice are served by ordering the continuances and outweigh the best interests of the public

¹ All General Orders related to the COVID-19 pandemic may be found on the Court's website at <https://www.mnd.uscourts.gov/coronavirus-covid-19-guidance>.

and of the criminal defendants under 18 U.S.C. § 3161(h)(7)(A). Absent further order of the Court or any individual judge, the period of exclusion shall be from March 17, 2020, or the date of the indictment, whichever is later, to the date that the criminal proceeding takes place. The Court may extend the period of exclusion as circumstances may warrant.

This Court finds that, pursuant to 18 U.S.C. § 3161(h), the ends of justice served by granting a continuance outweigh the best interests of the public and Defendant in a speedy trial, and such continuance is necessary to allow defense counsel to confer with Defendant and make an adequate factual inquiry for purposes of preparing for the pretrial motions hearing.

Based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendant Richard Dean Vandeweerd's Motion for Continuance of Motion Filing Date, ECF No. 20, is **GRANTED**.

2. All motions in the above-entitled case shall be filed and served consistent with Federal Rules of Criminal Procedure 12(b) and 47 on or before **July 26, 2022**. D. Minn. LR 12.1(c)(1). Two courtesy copies of all motions and responses shall be delivered directly to the chambers of Magistrate Judge Leung.

5. **Should Defendant file pretrial motions, counsel shall also file a letter on or before July 26, 2022, indicating whether Defendant consents to a motions hearing by videoconference.**

6. Counsel shall electronically file a letter on or before **July 26, 2022**, if no motions will be filed and there is no need for hearing.

7. All responses to motions shall be filed by **August 9, 2022**. D. Minn. LR 12.1(c)(2).

8. Any Notice of Intent to Call Witnesses shall be filed by **August 9, 2022**. D. Minn. LR. 12.1(c)(3)(A).

9. Any Responsive Notice of Intent to Call Witnesses shall be filed by **August 12, 2022**. D. Minn. LR 12.1(c)(3)(B).

10. **All other dates as set forth in the Arraignment Order, ECF No. 14, remain in effect.** Specifically:

a. A motions hearing will be held pursuant to Federal Rules of Criminal Procedure 12(c) where:

1. The government makes timely disclosures and a defendant pleads particularized matters for which an evidentiary hearing is necessary; or
2. Oral argument is requested by either party in its motion, objection or response pleadings.

b. **If required, the motions hearing shall take place before the undersigned on August 16, 2022, at 10:00 a.m., in Courtroom 9W, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota.** D. Minn. LR 12.1(d).

c. **IF NO PRETRIAL MOTIONS ARE FILED BY DEFENDANT: the following trial and trial-related dates are:**

All motions in limine and proposed voir dire and jury instructions are due in District Judge Wilhelmina Wright's chambers at least 21 days before trial begins. Counsel are advised that a pretrial notice will issue that will include additional deadlines. Judge Wright will hold a pretrial conference on **August 24, 2022, at 11:00 a.m.** in Courtroom 7A, U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota.

This case must commence trial on **August 29, 2022, at 8:30 a.m.** before District Judge Wright in Courtroom 7A, Warren E. Burger Federal Building and U.S. Courthouse, 316 North Robert Street, **SAINT PAUL**, Minnesota.

d. **IF PRETRIAL MOTIONS ARE FILED, the trial date, and other related dates, will be rescheduled following the ruling on pretrial motions. Counsel must contact the Courtroom Deputy for District Judge Wright to confirm the new trial date.**

Dated: July 27, 2022

s/ Tony N. Leung
Tony N. Leung
United States Magistrate Judge
District of Minnesota

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